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EXAMINER

HAWK, NOAH CHANDLER

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/713,245	OIDTMAN, ROBERT E.	
	Examiner	Art Unit	
	Noah C. Hawk	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 1-3, 11, 12 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 4-10, 13 and 15-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The drawings were received on 1/23/06. These drawings are accepted.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 9 and 10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 9 discloses a bracket wherein the bracket shaft comprises a first and a second side which are connected and form an apex and are respectively connected to the first and second bracket shaft joist walls. However in Claim 7, on which Claim 9 is dependent, the applicant discloses a bracket with three shaft walls. The applicant must clarify whether a two-walled, essentially triangular shaft or a three-walled, essentially rectangular shaft is intended and rewrite the claims to reflect the clarification.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 4, 7, 23 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Regarding Claim 4, the phrases "the cap step down plug bottom section is removably insertable in a top end of the pole" and "a cap plug removably insertable in the top end of the pole" render the claim indefinite. The instant claim appears to recite two different elements (the cap step down plug and the cap plug) installed in the top of the pole. It is unclear if the two elements are intended to be used at the same time or even if they could be used at the same time. The applicant must clarify how and if these two elements are to be used at the top of the pole.

b. Regarding Claim 7, the claim recites the limitations "the first bracket wall" and "the third bracket wall." There is insufficient antecedent basis for these limitations in the claim. Further, the claim states that the second bracket shaft joist wall is connected perpendicularly at an end to the *first* end of the third bracket wall and then states that the second bracket shaft joist wall is perpendicularly connected to a *second* end of the third bracket wall. Unless one of the walls in question is curved, this is impossible. The applicant must clarify the arrangement of the walls of the bracket. For the purposes of examination, the Office will replace the phrase (emphasis added) "a second one of the *bracket shaft joist walls* is substantially perpendicularly connected at an end to a first end of the third bracket wall" with "a second one of the *bracket shaft walls* is

substantially perpendicularly connected at an end to a first end of the third bracket shaft wall.”

c. Regarding Claim 23, the claim recites the limitation “the hook bolt shaft.” There is insufficient antecedent basis for this limitation in the claim. For the purposes of examination, any reference to the hook bolt shaft in the claim will be given no patentable weight.

d. Regarding Claim 25, the phrase “an outdoor assembly” renders the claim indefinite. The instant claim is unclear as to how the outdoor assembly is related to the claimed invention of a bracket and pole assembly. As currently presented, the lazy susan outdoor assembly could be adjacent and totally unconnected to the bracket and pole assembly of the parent claims. The applicant must clarify the relationship of the outdoor assembly and the bracket and pole assembly.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

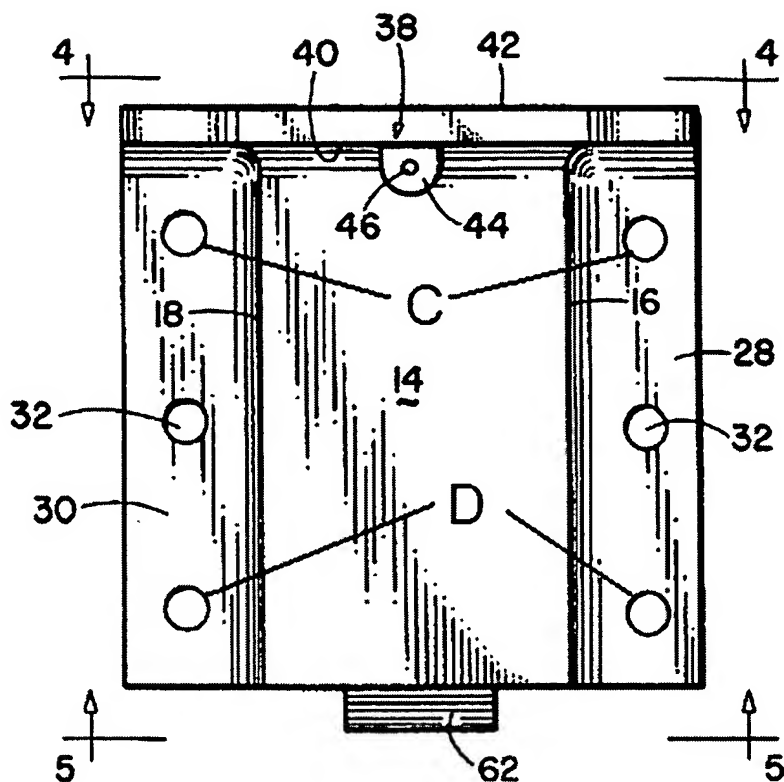
7. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aberle in US Patent 5618078 in view of Malinao in US Patent 5154381, Tennant in US Patent 4662132 and Wright, Sr. in US Patent D462889. Aberle discloses a bracket and pole assembly for use on a raised flooring surface, the assembly comprising at least

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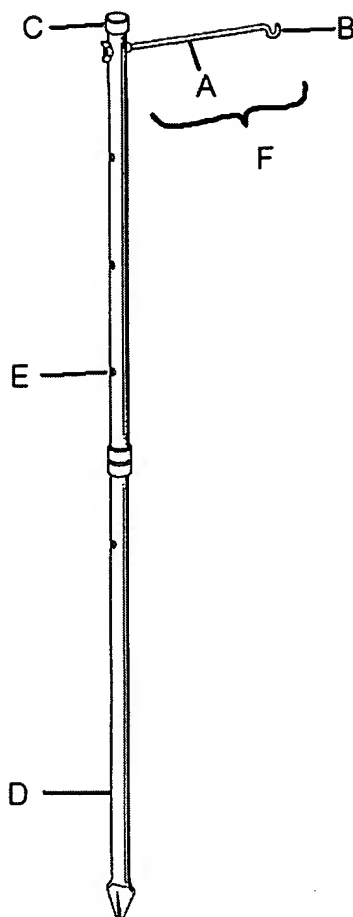
one bracket (10) comprising a bracket shaft (20) and a bottom support (48), two bracket shaft joist walls (28, 30) adjacent the bracket shaft, a plurality of spaced apart, inner and outer bracket holes (C, D, Best seen in Aberle, Figure 3) extending through the bracket shaft joist walls, the inner bracket holes (C) being adjacent the bracket shaft and spaced apart from the outer bracket holes (D). Aberle further discloses at least one pole assembly comprising a removable, hollow, one piece pole (100), an end portion of the pole being removably insertable in the bracket shaft and supportable on the bottom support but does not disclose the use of a cap step down plug, cushioning along a base portion of the pole, a cap plug, a hook, a base plug or a table attachment bolt. Aberle is silent on whether the pole (100) is hollow, however, hollow poles are well known in the art and it would have been obvious to one of ordinary skill in the art at the time of invention to use a hollow pole in order to provide a lighter weight pole. Malinao discloses a cap step down plug comprising a cap step down plug top section (3), and cap step down plug bottom section (2) connected to the cap step down plug top section and a generally circular cap step down plug aperture extending through the center of the cap step down plug top section and the center of the cap step down plug bottom section and an attachment bolt shaft (12) extending transversely through the cap step down plug bottom section, wherein the cap step down plug is removably insertable in a top end of the pole. Malinao fails to disclose cushioning along a base portion of the pole, a cap plug, a hook, a base plug or a table attachment bolt. Tennant discloses the use of a plug (74) removably insertable in an end of a pole but fails to disclose cushioning along a base portion of the pole, a hook or a table attachment bolt. Wright,

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Sr. discloses a pole with a hook mechanism (C) below the top pole end and above the pole base, the hook mechanism having a linear portion (A) extending through a hook bolt shaft (best seen in Wright, Sr., Figure 1) and a curved portion (B) as well as a table attachment bolt shaft (E) extending through the pole below the hook mechanism. The Office takes official notice that it is well known to use cushioning means, such as cushioning along a base of a pole, to insure a tight fit when two objects are insertably related. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Aberle by adding cushioning at the base of the pole, by using a cap step down plug as taught by Malinao to provide means for using differently sized poles with the assembly or by adding a plug as taught by Tennant in the top of the pole to cap the pole in order to prevent rain from filling the pole, by adding a plug as taught by Tennant in the base of the pole in order to prevent insects from crawling up into the pole, and by using a pole with a hook and table attachment bolt shaft as taught by Wright, Sr. in order to add utility to the pole.



Aberle, Figure 3



Wright, Sr. Figure 1

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aberle in view of Dysarz in US Patent 5120018. Aberle discloses a bracket and pole assembly for use on a raised flooring surface, the assembly comprising at least one bracket (10) comprising a bracket shaft (20) and a bottom support (48), two generally rectangular bracket shaft joist walls (28, 30) adjacent the bracket shaft, a plurality of spaced apart, inner and outer bracket holes (C, D, Best seen in Aberle, Figure 3) extending through the bracket shaft joist walls, the inner bracket holes (C) being adjacent the bracket shaft

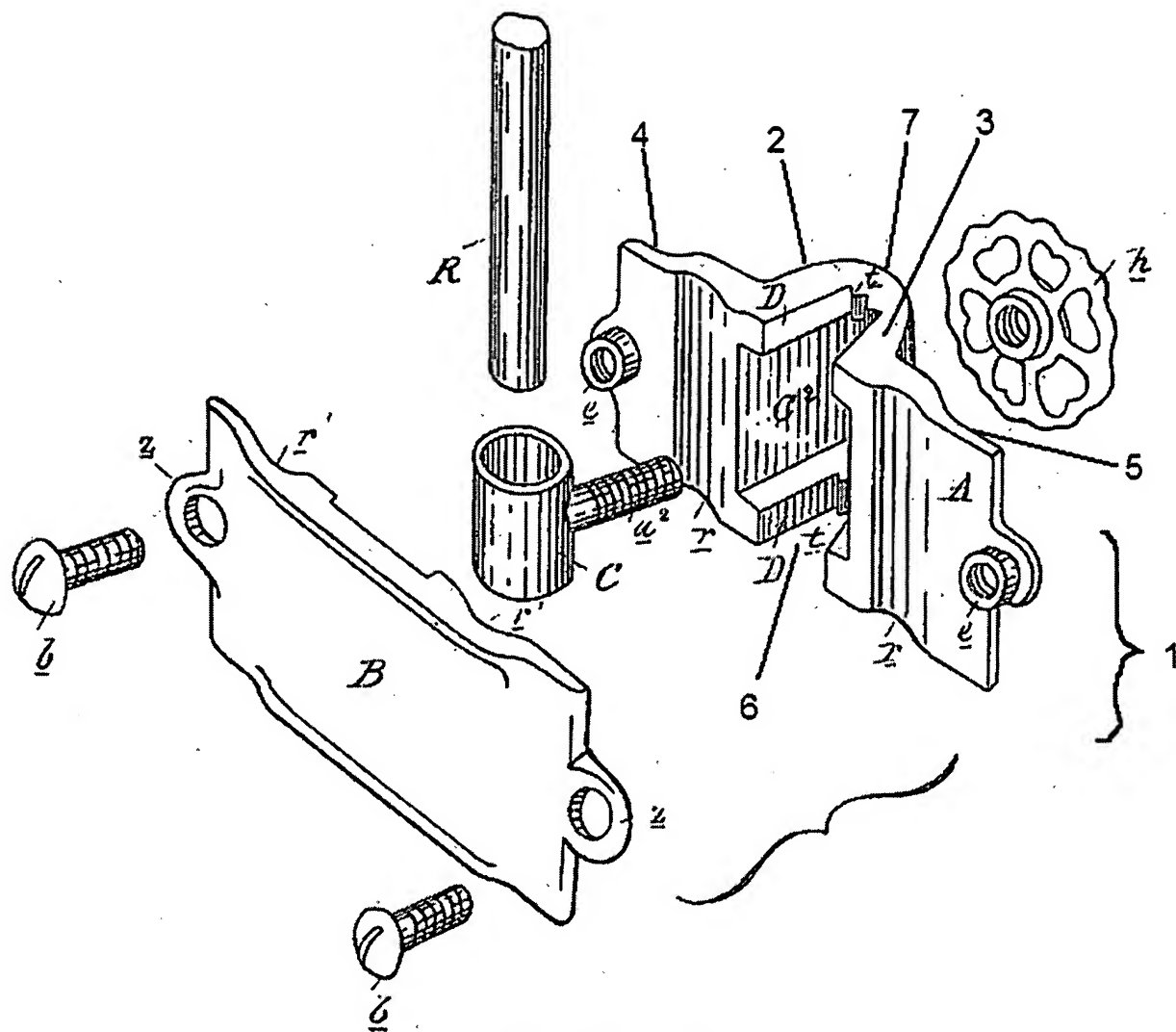
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and spaced apart from the outer bracket holes (D). Aberle further discloses at least one pole assembly comprising a removable, hollow, one piece pole (100), an end portion of the pole being removably insertable in the bracket shaft and supportable on the bottom support wherein a first one of the bracket shaft joist walls (30) is substantially perpendicularly connected at an end to a first bracket wall (18), a second one of the bracket shaft walls (14) is substantially perpendicularly connected at an end to a first end of the third bracket wall (16) and the third bracket wall is substantially perpendicularly connected at a second end to the second bracket shaft joist wall (28). Aberle is silent on whether the pole (100) is hollow, however, hollow poles are well known in the art and it would have been obvious to one of ordinary skill in the art at the time of invention to use a hollow pole in order to provide a lighter weight pole. Aberle fails to disclose that the bracket includes two bracket wall holes or the use of a bolt through the holes. Dysarz discloses a bracket and pole assembly with at least two bracket wall holes (21) on opposite walls of a bracket (1) wherein the bottom support is at least one bolt (20) extending perpendicularly through the first bracket wall hole and the second bracket wall hole and through the bracket shaft. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Aberle by adding wall holes as taught by Dysarz in the lower portion of the bracket in order to help prevent, along with the bottom support wall, the pole from falling through the bracket shaft.

9. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aberle in view of Dysarz as applied to Claim 7 above. As stated above, Aberle in view of Dysarz

discloses all of the limitations of Claim 7 including a bracket and pole assembly. Aberle further discloses that the first and second (30, and 28, respectively) bracket shaft joist walls and the first, second and third (18, 14, 16 respectively) bracket walls are each generally rectangular in shape.

10. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aberle in view of Dysarz as applied to claim 7 above, and further in view of Ege in US Patent 311731. As stated above, Aberle in view of Dysarz teaches all of the limitations of Claim 7. Aberle further discloses a bottom support (48) in the form of a base plate but does not disclose a bracket with a first and second side being attached at obtuse angles to the bracket shaft joist walls. Ege discloses a bracket (1) with a bracket shaft (6) comprising a generally rectangular first side (2) and a generally rectangular second side (3), a first end of the first side being connected at an obtuse angle to the generally rectangular first bracket shaft joist wall (4), a second, opposite end of the first side being connected to a first end of the second side to form an apex (7), a second, opposite end of the second side being connected at an obtuse angle to the generally rectangular second bracket shaft joist wall (5). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Aberle in view of Dysarz by using a bracket shaft with two sides meeting the bracket shaft walls at obtuse angles as taught by Ege in order to provide a shaft that takes up less room around the pole.

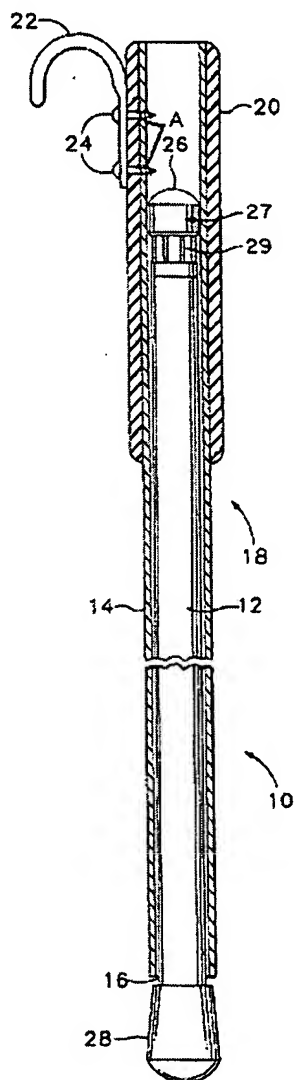


Ege, Figure 1

11. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aberle in view of Dysarz as applied to Claim 7 above and further in view of Ericksen in US Patent 5628538. As stated above, Aberle in view of Dysarz teaches all of the limitations of Claim 7 including a bracket and pole assembly but fails to teach a hook mechanism. Ericksen teaches a pole assembly further comprising a hook mechanism with a hook (22), a plurality of hook bolt shafts (A) extending transversely through the pole (14) and

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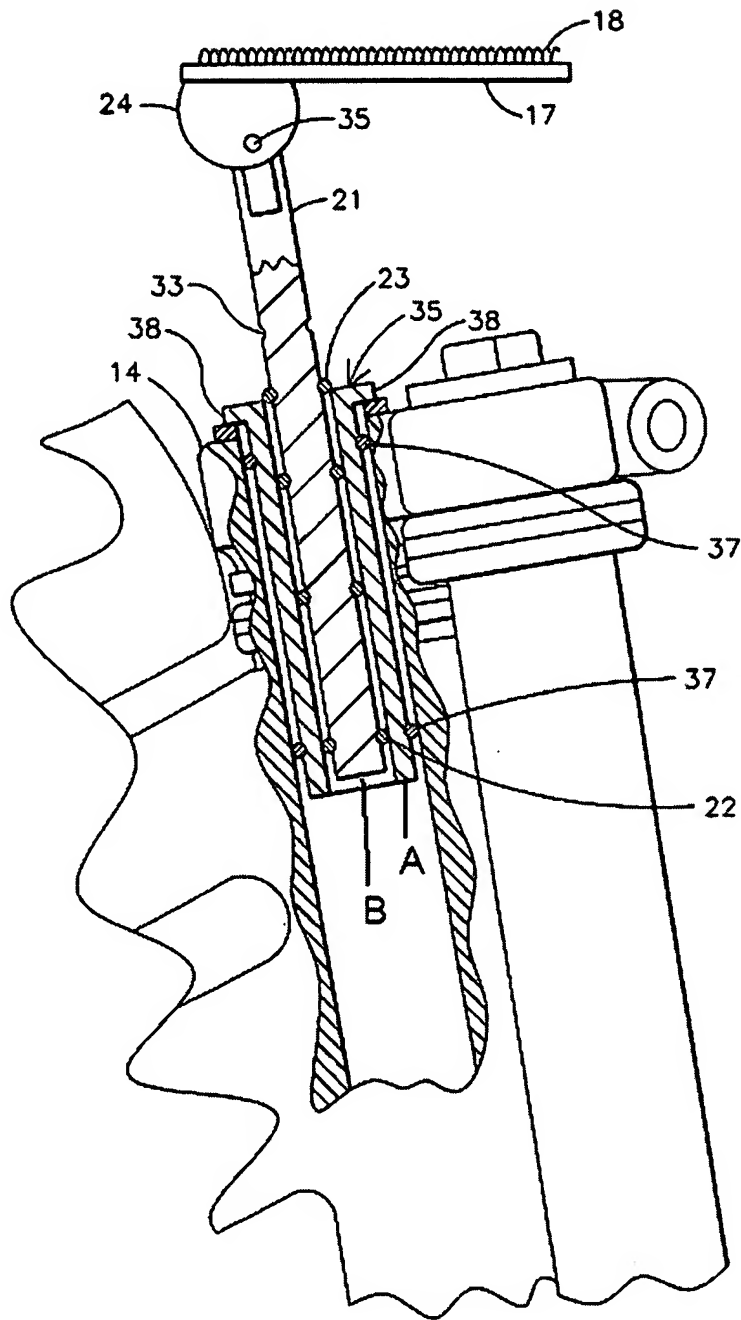
hook bolts (24) insertable through the hook and hook bolt shafts. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Aberle in view of Dysarz by adding a hook mechanism as taught by Ericksen in order to allow the user to hang articles from the pole.



Ericksen, Figure 3

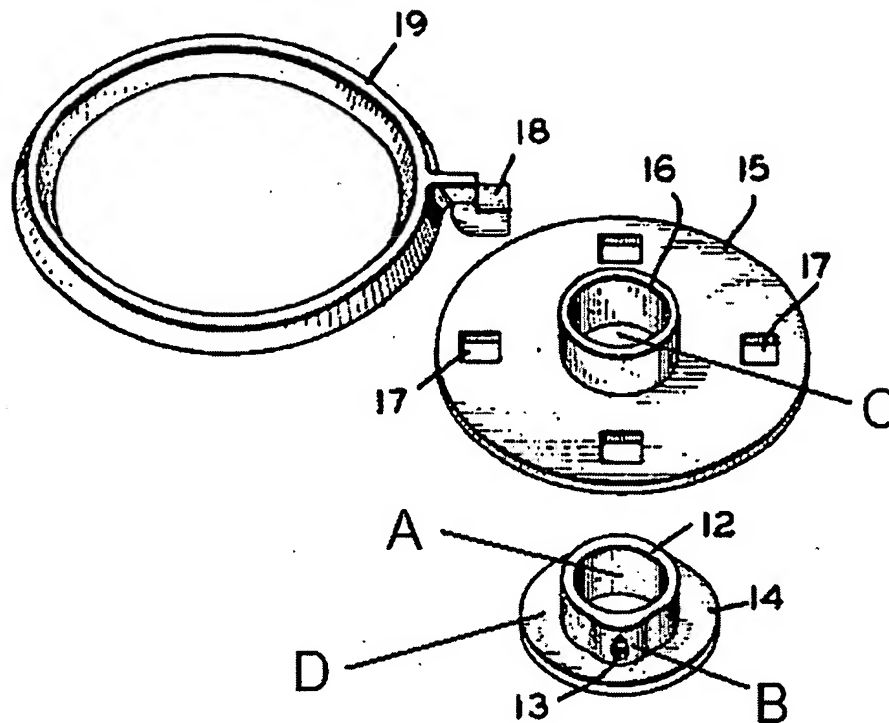
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12. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aberle in view of Dysarz and Ericksen as applied to Claim 13 above and further in view of Lee in US Patent 6378815. As stated above, Aberle in view of Dysarz and Ericksen teach all of the limitations of Claim 13 including a bracket and pole assembly with a hook, but fails to disclose the use of a step down plug Lee discloses a step down plug (35, best seen in Lee, Figure 7), which comprises a step down plug top section (38) a step down plug bottom section (A), connected to the step down plug top section and removably inserted in a shaft, and a generally circular step down plug aperture (B) extending through a center of the step down plug top section and the step down plug bottom section. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Aberle in view of Dysarz and Ericksen by using a step down plug as taught by Lee in order to provide means to mount poles of smaller diameter than the bracket shaft in the bracket.



Lee, Figure 7

13. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aberle in view of Dysarz as applied to claim 7 above, and further in view of Fetter in US Patent 2970701. As stated above, Aberle in view of Dysarz teaches the limitations of Claim 7 including a pole assembly but fails to disclose a table attachment mechanism. Fetter discloses a table attachment mechanism comprising a table attachment top section (14) and a table attachment bottom section (12) connected to the table attachment top section such that both are generally cylindrical in shape and a diameter of the table attachment bottom section is smaller than a diameter of the table attachment top section (relative sizes best seen in Fetter, Figure 3), a generally circular table attachment aperture (A) extending through the center of the table attachment top section and the center of the table attachment bottom section with a diameter about equal to an outer diameter of a pole (11), and a table bolt shaft (B) extending transversely through the table attachment bottom section. Fetter discloses that the table attachment aperture (A) is slidable over the pole (11) and the table attachment is removably secured to the pole by a table bolt (13) inserted through the table bolt shaft (B) (see Fetter, Column 2, lines 18-26). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Aberle by adding a table attachment mechanism therewith as taught by Fetter in order to allow the user to removably attach a table to the pole.



Fetter, Figure 5

14. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aberle in view of Dysarz as applied to claim 7 above, and further in view of Burton in US Publication 2002/0047280. As stated above, Aberle in view of Dysarz teaches the limitations of Claim 7 including a bracket and pole assembly. Aberle in view of Dysarz fails to disclose bolt covers. Burton discloses a cylindrical bolt cover (46, best seen in Burton, Figure 6) over a bolt (36), the bolt cover being about equal in length to the width of a space (best seen in Figure 5). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Aberle in view of Dysarz by using bolt covers as taught by Burton in order to protect the bolts from the impact of a pole.

15. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aberle in view of Malinao, Tennant and Wright, Sr. as applied to claim 4 above, and further in view of Dysarz in US Patent 5120016. As stated above, Aberle in view of Malinao, Tennant and Wright, Sr. teaches the limitations of Claim 4 including a bracket and pole assembly but fails to disclose a lamp as the cap plug. Dysarz discloses a bracket and pole assembly (1) wherein a cap plug comprises a lamp (27, best seen in Dysarz, Figure 14). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Aberle in view of Malinao, Tennant and Wright, Sr. by adding a lamp at the top of the pole in order to provide light to the area where the assembly is installed.

16. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aberle in view of Dysarz and Burton as applied to claim 19 above, and further in view of Fetter. As stated above, Aberle in view of Dysarz and Burton teaches the limitations of Claim 19 including a bracket and pole assembly but fails to disclose a tabletop or tabletop attachment mechanism. Fetter discloses a central hole (C) in a tabletop (15) that has a diameter about equal to an outer diameter of a pole (11) and is slidable over the pole, and a table attachment mechanism (D) supporting the tabletop. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Aberle in view of Dysarz and Burton by adding a tabletop and table attachment mechanism therewith as taught by Fetter in order to allow the user to attach a table to the pole.

17. Claim 22 is are rejected under 35 U.S.C. 103(a) as being unpatentable over Aberle in view of Dysarz as applied to claim 7 above, and further in view of Malinao. As stated above, Aberle in view of Dysarz teaches the limitations of Claim 7 including a pole assembly but fails to disclose a cap step down plug or an outdoor assembly. Malinao discloses a removable cap step down plug comprising a cap step down plug top section (3), a cap step down plug bottom section (2) connected to the cap step down plug top section and a generally circular cap step down plug aperture extending through the center of the cap step down plug top section and the center of the cap step down plug bottom section and an attachment bolt shaft (6) extending transversely through the cap step down plug bottom section, wherein the cap step down plug bottom section is removably insertable in a top end of a pole (23). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Aberle in view of Dysarz by adding a step down plug as taught by Malinao in order to provide means for using differently sized poles with the assembly.

18. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aberle in view of Dysarz and Malinao as applied to claim 22 above, and further in view of Cartwright in US Patent 1763130. As stated above, Aberle in view of Dysarz and Malinao teaches the limitations of Claim 22 including a bracket and pole assembly but fails to disclose the use of a flower pot or that the attachment bolt shaft removably secures the cap to the pole. Malinao discloses a cap step down plug removably secured to a pole by an attachment bolt (12) through the attachment bolt shaft (the fact that the head of the bolt prevents the step down plug from twisting is considered "removably

secured”) but fails to disclose a flower pot. Cartwright teaches a flower pot out door assembly (Best seen in Cartwright, Figure 1) which would be removably insertable in the cap step down plug aperture. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Aberle in view of Dysarz and Malinao by using an attachment bolt as taught by Malinao in order to removably secure the cap step down plug and to add a removably flower pot outdoor assembly as taught by Cartwright in order to allow the user to place flowers at the top of the pole.

19. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aberle in view of Dysarz and Malinao as applied to claim 22 above, and further in view of Brumfield. As stated above, Aberle in view of Dysarz and Malinao teaches the limitations of Claim 22 including a bracket and pole assembly but fails to disclose an umbrella. Brumfield discloses attaching an umbrella (13) to a pole by removably inserting it into an aperture means (33). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Aberle in view of Dysarz and Malinao by adding an umbrella as the outdoor accessory assembly as taught by Brumfield in order to provide shade to the user of the pole.

20. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aberle in view of Dysarz and Malinao as applied to claim 22 above, and further in view of Anderson. As stated above, Aberle in view of Dysarz and Malinao teaches the limitations of Claim 2 including a bracket and pole assembly but fails to disclose using a lazy susan on the pole. Anderson discloses a rotating table (40) on a pole (18). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the

device of Aberle in view of Dysarz and Malinao by adding a lazy susan or rotating table as the outdoor accessory on the pole in order to provide a pleasant dining experience for the user of the pole.

21. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aberle in view of Fetter and further in view of Malinao. Aberle discloses a bracket (10) comprising a bracket shaft (20), the bracket being attachable to a floor joist with the bracket shaft directly below a hole in the raised flooring surface and at least one pole assembly (100) comprising a removable hollow pole, an end portion of the pole being removably insertable in the bracket shaft but does not disclose a tabletop, a tabletop attachment mechanism, a cap step down plug or an outdoor accessory assembly. Fetter discloses a tabletop (15) and a tabletop attachment mechanism (D) attached to a pole (11). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Aberle by adding a tabletop and tabletop attachment mechanism as taught by Fetter in order to allow the user to utilize the pole as an eating space. Aberle in view of Fetter fails to disclose a cap step down plug and an outdoor accessory assembly. Malinao discloses a cap step down plug (1) insertable in the top of a pole assembly, the cap step down plug comprising a cap step down plug aperture and at least one outdoor accessory assembly (7) removably insertable in the cap step down plug aperture. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Aberle in view of Fetter by adding a cap step down plug and outdoor accessory assembly as taught by Malinao in order to provide the user the option of attaching other means to the pole.

Response to Arguments

22. Applicant's arguments filed 1/23/06 have been fully considered but they are not persuasive.

23. Regarding Claims 9 and 10, the applicant has failed to clarify whether the claimed device has an essentially rectangular, three-sided shape or an essentially triangular, two-sided shape because the parent claim still refers to three bracket shaft walls.

24. The previous rejections under 112, 2nd have been clarified.

25. Although the applicant has added the inner and outer holes on the bracket shaft joist walls, he has failed to specify where they are, or why one set is inner and one set is outer. The direction being referenced could potentially be away from the top of the bracket or the bottom of the bracket as well as away from the bracket shaft.

26. The cap step down plug taught by Malinao is readily removable from the pole in which is installed – the pin 12 acts as a securing device but stills allows the user to remove the plug from the pole. Additionally, the pin can be seen to cross transversely through the plug.

27. The Dysarz reference is used to disclose a bracket with a through-bolt acting between opposite bracket walls as a bottom support. The structural installation of the Dysarz device is not in question.

Conclusion

28. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ito, Sharon et al., and Japanese Publication P2001-45872A disclose flower pot outdoor assemblies.

29. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Noah C. Hawk whose telephone number is 571-272-1480. The examiner can normally be reached on M-F 9am to 5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NCH
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4/3/06

LANNA MAI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

